

**Testimony in Support of Leo Diana's Nomination to be a Judge of the Superior Court
Judiciary Committee Public Hearing**

April 11, 2014

Testimony of Timothy J. Tomcho, Windsor, Connecticut

Senator Coleman, Representative Fox, Senator Kissel, Representative Rebimbas and members of the Judiciary Committee, thank you for the opportunity to testify, as a recently divorced citizen of the great State of Connecticut and the father of four outstanding "military" children, in support of Leo Diana's nomination to be a judge of the Superior Court.

As any actively serving member of the United States Armed Forces with a family will likely attest, raising and supporting a family while serving in the military is challenging. Although our government takes many efforts to recognize military families and to alleviate some of the challenges faced by military families, some issues inherently lack remedy. The most precious resource of any parent and of all families, time, cannot be controlled by military parents. Military parents serve 24/7, 365, and struggle to balance military service with parenthood. When required for the mission, military parents must report for duty. There is no overtime, incentives or refusing the order to "show up," It is our duty and a matter of loyalty, honor and patriotism. Many families persevere. Many cannot endure the competing demands.

In November 2012 and after 13 years of marriage, my wife introduced me to Connecticut's divorce process when she informed me of her intentions. "I am taking the kids. We're selling the house. We're getting divorced." What followed was fourteen months of torture and a court order that rewrote the last sixteen years of my life, which, I had previously thought, was decidedly and selflessly dedicated to the welfare of my wife and children. The court's memorandum of decision (Tomcho v. Tomcho, available at <http://caselaw.findlaw.com/ct-superior-court/1658840.html>), portrayed me as a failed and controlling husband and father, whose efforts to support his family of six on one income was offensive to the State of

Connecticut and has subjected me to the ridicule of my colleagues and undermined my ability to continue serving in the military. I am forever darkened by the court's memorandum of decision.

The only bright spot in my fully contested divorce was the appointment of Attorney Leo Diana as the Guardian Ad Litem (GAL). Of all the "professionals" involved in my divorce, only Leo Diana appeared as a person who performed his duties with integrity and honor, as one who cared about his work, justice and as someone who believed that there is something special in the concepts of equity and impartiality. As Connecticut's divorce process, especially as related to GALs, has received much well deserved scrutiny due to this committee's "*Task Force to Study Legal Disputes Involving the Care & Custody of Minor Children*," the Law Revision Commission's "*Alimony Study*," and the recent suit by four anonymous plaintiffs challenging the constitutionality of Connecticut's alimony laws, I was skeptical of the appointment of a GAL. Moreover, the cost of my divorce was already astronomical and trial preparation had only begun.

My acquaintance with Leo Diana is limited to the services he provided as the GAL in my unnerving and disgruntling divorce. He, in spite of my skepticism of his role as GAL and hourly rate, managed to be the only person in entire process that appeared not only interested in but also passionate about his work. He did not support my proposed custody order. He, at least, had the fortitude to disagree with the custody order proposed by my ex, which would have my children bouncing back and forth between parents like ping-pong balls. Even under cross examination by opposing counsel, one with whom he had previous GAL appointments and with whom he had nearly universal agreement in custody decisions, he did not retreat from his independent judgment as to what custody arrangement constituted the best interest of my children. I was and still am impressed by Leo Diana, not only as an attorney and a GAL, but as a person and citizen. In my case, he alone effectively lifted the veil of ignorance to assess principles of justice.

I applaud the Governor's nomination of Leo Diana to become a judge. Unlike many attorneys, especially family-law attorneys, Leo Diana appears to be an attorney who has not let his many years as a practicing attorney jade his opinion of or dull his intellectual interest for the law, its practice and its execution through justice. He is a law man who served many years on the front lines of the legal practice, including years of service as a GAL. His practice has subjected him to very personal and disturbing cases and controversies involving children and families. Yet his mettle has not dulled and he has not lost sight of his or the profession's ideals. He exudes passion for the practice of law as ardently as the most glorified in the profession.

Leo Diana (in my humble opinion) will be a judge who is mindful of the practical implications of decision. Aware of second and third order effects of his decisions on those (and the families of those) who appear before him, he will exercise his equitable powers deftly, apply the law to the evidence and author decisions independently, without bias or impartiality. He is sure to maintain the integrity of the judicial system, tempering judicial discretion with integrity and honor. He will be a judge that those who serve or who have had served in the United States Armed Forces would surely be proud to address as "Your Honor," as Leo Diana appreciates the efforts and sacrifices of service members and veterans.

To be sure, Leo Diana will take the Connecticut Code of Judicial Conduct to heart, and reflect its acknowledgement that "The United States legal system is based on the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society."

I appreciate the opportunity to testify before you today on my steadfast belief that Leo Diana is an exceptional attorney, citizen and authentic person, one who uniquely merits the distinction of being nominated for and confirmed as a judge of Connecticut's Superior Court.